

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

JAMON N. HESTAND, #01343536

§

VS.

§

CIVIL ACTION NO. 6:22cv006

TDCJ INSPECTOR GENERAL, et al.

§

ORDER

Before the Court are Plaintiff's motion to withhold consent, (Dkt. #8), and motion for summons, (Dkt. #10), in this pending civil rights proceeding. Plaintiff filed this lawsuit on January 3, 2022. In support of the motion to withhold consent, Plaintiff states that his case is very serious and that the Defendants have committed hundreds of felonies.

Plaintiff may withhold consent to allow the United States Magistrate Judge to preside over the case to its conclusion and enter final judgment, pursuant to 28 U.S.C. §636(c). The withholding of such consent means that the Magistrate Judge will not preside over any trial which may be held in the case and will not enter the final judgment. However, a District Judge may refer pre-trial matters to a Magistrate Judge for a Report and Recommendation, for which **no** consent is required. *See Newsome v. E.E.O.C.*, 301 F.2d 227, 230 (5th Cir. 2002); *Jackson v. Cain*, 864 F.2d 1235, 1242 (5th Cir. 1989) ("No such consent is required, however, where the district court merely refers a prisoner's petition challenging conditions of confinement to a magistrate for determination of whether to hold a hearing and to make findings and recommendations.") (emphasis added).

Here, Plaintiff's case has been referred to the Magistrate Judge. 28 U.S.C. §636(b)(1). No consent is required for a referral under 28 U.S.C. §636(b), and so Plaintiff may not withhold consent to a referral under this provision. *See Newsome*, 301 F.2d at 230.

Turning to the motion for summons, Plaintiff moves for service of summons against all Defendants through the United States Marshal. He explains that the Defendants in this case “have a history of trying to evade service.” Plaintiff’s motion is premature, however, because the Court is screening Plaintiff’s complaint pursuant to 28 U.S.C. § 1915A—and Plaintiff has been ordered to submit an initial, partial filing fee of \$100.00. Accordingly, it is

ORDERED that Plaintiff’s motion to withhold consent, (Dkt. #8), is **DENIED** because no consent is required at this time. Finally, it is

ORDERED that Plaintiff’s motion to issue summons, (Dkt. #10), is **DENIED** as premature at this time.

So ORDERED and SIGNED this 25th day of January, 2022.



K. NICOLE MITCHELL
UNITED STATES MAGISTRATE JUDGE